## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

ANTHONY E. MCCALLISTER,	)	
Plaintiff,	)	
v.	)	No. 4:11-CV-792 CAS
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security,	)	
Defendant.	, )	

## MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's Application for Award of Attorney's Fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d)(1)(B). Plaintiff seeks attorney's fees in the amount of \$5,960.97, which amount is based on multiplying 32.1 hours of attorney time by a rate of \$185.70 per hour. Although plaintiff acknowledges that under <u>Astrue v. Ratliff</u>, 130 S. Ct. 2521, 2524 (2010), the EAJA fee is payable to plaintiff as the litigant, plaintiff states that he signed an agreement assigning any EAJA fee to his attorney. If he owes no debt to the United States, plaintiff asks the court to order defendant to make the fee payable to plaintiff's attorney based on the assignment.

Defendant filed a response which states that the "Defendant has no objection to Plaintiff's request for attorney fees under the EAJA in the amount of \$5,960.97." Defendant requests, however, that the attorney fees should be made payable directly to plaintiff as the litigant pursuant to <u>Astrue v. Ratliff</u>, 130 S. Ct. 2521 (2010).

The Court has reviewed plaintiff's application for an award of fees and expenses under the

EAJA, and concludes the statutory requirements are met. By Order and Judgment of Remand

dated September 24, 2012, this Court remanded this case to defendant Commissioner for further

proceedings pursuant to sentence four of 42 U.S.C. § 405(g). A claimant seeking judicial review

of a final decision denying Social Security disability benefits may recover attorney's fees if he or

she receives a "sentence four" remand. See Shalala v. Schaefer, 509 U.S. 292, 295-96 (1993).

Because plaintiff prevailed and is not otherwise precluded from receiving attorney's fees, the

Court finds that he is entitled to attorney's fees in the amount of \$5,960.97.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's application for attorney's fees and costs under

the Equal Access to Justice Act is **GRANTED**. [Doc. 25]

IT IS FURTHER ORDERED that defendant Commissioner of Social Security shall pay

attorney's fees under the EAJA in the amount of Five Thousand Nine Hundred Sixty Dollars and

Ninety-Seven Cents (\$5,960.97), payable to plaintiff.

**CHARLES A. SHAW** 

UNITED STATES DISTRICT JUDGE

Dated this 13th day of December, 2012.

2